

**IN THE CLAIMS:**

1. (currently amended) In a nonaqueous electrolyte secondary battery using a material capable of storing and releasing lithium as ~~[[the]]~~ a negative electrode material and a lithium transition metal complex oxide containing Ni and Mn as the transition metal and having a layered structure as ~~[[the]]~~ a positive electrode material,

said secondary battery being characterized in that said lithium transition metal complex oxide has a BET specific surface area of less than 3 m<sup>2</sup>/g and gives a pH value ~~of not greater than 11.0~~ within the range of 9.0 - 11.0 when it is immersed in purified water in the amount of 5 g per 50 ml of the purified water, and that an outer casing of said battery is composed at least partly of an aluminum alloy or aluminum laminate film having a thickness of up to 0.5 mm and susceptible to deformation in case of internal pressure buildup due to gas generation within the battery during storage.

2 - 4. (cancelled)

5. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1 - 4~~ claim 1,

characterized in that said lithium transition metal complex oxide is represented by the formula  $\text{Li}_a\text{Mn}_x\text{Ni}_y\text{Co}_z\text{O}_2$  (wherein  $a$ ,  $x$ ,  $y$  and  $z$  are numbers satisfying  $0 \leq a \leq 1.2$ ,  $x + y + z = 1$ ,  $x > 0$ ,  $y > 0$  and  $z \geq 0$ ).

6. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1—5~~ claim 1, characterized in that said lithium transition metal complex oxide contains substantially the same amount of nickel and manganese.

7. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1—6~~ claim 1, characterized in that said lithium transition metal complex oxide has a BET specific surface area of not greater than  $2 \text{ m}^2/\text{g}$ .

8. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said lithium transition metal complex oxide contains substantially the same amount of nickel and manganese.

9. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said lithium transition

metal complex oxide has a BET specific surface area of not greater than 2 m<sup>2</sup>/g.

10. (new) The nonaqueous electrolyte secondary battery as recited in claim 6, characterized in that said lithium transition metal complex oxide has a BET specific surface area of not greater than 2 m<sup>2</sup>/g.

11. (new) The nonaqueous electrolyte secondary battery as recited in claim 8, characterized in that said lithium transition metal complex oxide has a BET specific surface area of not greater than 2 m<sup>2</sup>/g.